

REMARKS/ARGUMENTS

I. Status of the Claims

Claims 129-204 are pending in the instant application. Claims 1-128 are canceled.

Claims 129-143 and 158-202 are withdrawn from consideration. Claims 144-157, 203 and 204 are currently presented. Claims 150 and 153 are currently amended. New claims 203 and 204 are added. No new matter has been added.

Applicants thank the Examiner for the helpful and courteous telephone interview on February 15, 2011.

II. Support for New and Amended Claims

Support for the new and amended claims is provided in the specification and the claims as originally filed in the instant application.

Claim 150 is amended to correct a typographical mistake. The basis for this correction is readily apparent from claim 144 (from which this claim depends).

Claim 153 is amended to correct a typographical mistake and, further, to recite “optical detection” as a method of detection. This amendment is supported, for example, in paragraphs [0017] and [0129] of the specification as published (US 2002/0142453 A1) as well as the abstract.

New claim 203 is supported, for example, in paragraph [0255] and claim 65 as filed.

New claim 204 is supported, for example, in paragraph [0255].

Since no new matter has been added by these claim amendments, Applicants respectfully request their entry into the record.

III. Response to the Rejection

35 USC § 112, first paragraph, written description

The Examiner has rejected claims 144-157 under 35 USC § 112, first paragraph, for allegedly failing to comply with the written description requirement.

Specifically, the Action states that “Applicants invention is not adequately described for the full breadth, and is limited to mesogenic liquid crystals encapsulated between two substrates

prepared on anisotropic gold hosting an organic self-assembled monolayer, and detection using polarized light or optical spectroscopy and transmission.”

The Examiner further refers to the Abbott Declaration filed in U.S. Patent Application Serial No. 10/934,023 (the ‘023 application), signed on June 11, 2008, as allegedly indicating that the liquid crystal based biosensors of the instant application are dependent on the anisotropic gold substrate surface and organic self assembled mono layers. [See p. 4 of the Office Action.]

As discussed during the Examiner Interview on Feb. 15, 2011, and as outlined in more detail in the Declaration of Nicholas L. Abbott submitted herewith, the statements made in the Declaration in the ‘023 application “were in reference to Figure 1B, which does depict an anisotropic gold surface. [Dr. Abbott] did **not** state that the sensors of the instant application [as a whole] were limited to the use of anisotropic gold surfaces. [...] [T]his is also consistent with the later response dated July 15, 2009, made in the ‘023 application.” [See item 3. Emphasis added.]

The application describes a number of different configurations of substrates and surface treatments useful for making liquid crystal biosensors. In the section of the Office Action entitled “The supporting disclosure,” the Examiner has limited the analysis to paragraphs [0145]-[0146], [0164] and Examples 1-6. As outlined further in the Declaration submitted herewith, a number of other substrates and surface treatments are described in the application. Specific references to this description and supporting publications are provided in the instant Declaration. [See items 4-9.] The Examiner is further referred to the arguments presented in the previous response dated Oct. 23, 2009, which are incorporated herein by reference.

The Examiner indicated during the interview that the instant written description rejection would be overcome in view of the Declaration, which is formally submitted herewith, and that the claims would, thus, be allowable. In view of the arguments above and the Declaration of Nicholas L. Abbott submitted herewith, Applicants respectfully request withdrawal of the rejection.

Application No. 10/044,899
Response dated Feb. 28, 2011
Response to Office Action mailed Mar. 1, 2010

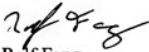
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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-442-1000.

Respectfully submitted,


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